

Hearing Date & Time: Wednesday, October 26, 2005 @ 11:00 a.m.
Location: 900 Market St., Courtroom #1, Philadelphia, PA 19107

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	Chapter 7
RYAN MALONE and	:	
JENNIFER MALONE	:	
	:	
	:	
Debtors	:	Bankruptcy No.: 05-18492 (KJC)

MOTION OF THE UNITED STATES TRUSTEE TO DISMISS CASE PURSUANT TO 11 U.S.C. § 707 (a) OR IN THE ALTERNATIVE TO EXTEND DEADLINES PURSUANT TO FRBP 1017 (e)(1)

The United States Trustee for Region 3, Kelly Beaudin Stapleton, by and through her counsel, in furtherance of her administrative responsibilities imposed pursuant to 28 U.S.C. Section 586 (a), moves this Court for an Order dismissing this case pursuant to 11 U.S.C. § 707 (a), or alternatively, an extension of time as permitted by FRBP 1017 (e)(1) to file a Motion to Dismiss under 11 U.S.C. § 707 (b) or file a complaint to deny discharge under 11 U.S.C. § 727, and the grounds for this motion are as follows:

1. Kelly Beaudin Stapleton is the United States Trustee for this jurisdiction.
2. Pursuant to 11 U.S.C. §307, the United States Trustee has standing to be heard on this matter.
3. On June 20, 2005, Ryan Malone and Jennifer Malone, (the "Debtors") filed for relief under Chapter 7 of the Bankruptcy Code. The Meeting of Creditors was set for July 22, 2005, making the deadline to object to discharge or file a motion to dismiss under section 707 (b) September 20, 2005.

4. On June 27, 2005, the Office of the United States Trustee wrote to the Debtors' counsel requesting information regarding the Debtors' disclosures (or lack thereof) in the Debtors' schedules and statement of affairs. The Debtors partially complied with the United States Trustee's request for information.

5. Section 707 (a) provides that the Court may dismiss a case for cause. This Circuit has found that a Bankruptcy Court can dismiss a case under § 707 (a) if the petitioner fails to demonstrate good faith in filing. See In re Tamecki, 229 F.3d 205 (3d Cir. 2000).

6. The Debtor's lack of cooperation with the United States Trustee has frustrated the United States Trustee's ability to investigate this case and perform her statutorily mandated administrative responsibilities. Such lack of cooperation is an indicator of the Debtor's bad faith and warrants dismissal of this case for cause.

7. The United States Trustee avers that if this case is not dismissed then there is cause to extend the deadlines to file a motion to dismiss under 11 U.S.C. 707 (b) or to file a complaint to deny discharge under 11 U.S.C. § 727 to January 26, 2006.

WHEREFORE, the United States Trustee respectfully requests this Honorable Court to Dismiss this case pursuant to 11 U. S. C § 707 (a) or in the alternative, to extend the deadline pursuant to FRBP 1017 (e)(1) to file a motion to dismiss or a complaint to deny the debtor's discharge and for all other relief that is just and proper.

Respectfully submitted,

KELLY BEAUDIN STAPLETON
United States Trustee, Region 3

BY: */s/ Kevin P. Callahan*

Kevin P. Callahan
Trial Attorney
Office of the U.S. Trustee
833 Chestnut Street, Suite 500
Philadelphia, PA 19107
Telephone: (215) 597-4411
Facsimile: (215) 597-5795

Dated: September 14, 2005